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Housing Rehabilitation and the Pittsburgh Graded Property Tax

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HOUSING REHABILITATION AND THE PITTSBURGH GRADED PROPERTY TAX

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INTRODUCTION: REBIRTH OF AN OLD IDEA

Few proposals regarding the sticky problem of slums and taxes can be said to be new. Yet, one of the oldest ideas,[1] that of shifting part of the real property tax burden from buildings to land as a means of eliminating city slums, has received recent endorsement from individuals whose aims and influence combine to give it, if not youth itself, a new lease on life.

Martin Meyerson, professor of city planning and Urban Research at Harvard University, Director of the M.I.T.-Harvard Joint Center for Urban Studies and past executive director and vice president of the American Council to Improve Our Neighborhoods, and Edward C. Banfield, Professor of Urban Government at Harvard, claim that:

> *The most serious defect of the real property tax is that it discourages new investment.* As it stands, the tax offers property owners no incentive to tear down old houses, office buildings, stores, and factories and build better ones in their places. On the contrary, it actually penalizes efforts at modernization; a new building is at a tax disadvantage as compared to an old one.
>
> In a city like Boston, which has so many obsolete buildings, a tax system that works this way cannot be defended. . . .
>
> *The best way to remove the inhibiting effect of the property tax, however, would be to tax the land components of real estate relatively heavily and the building component relatively lightly.* A tax on land is normally capitalized (that is, the price of the land changes to take the tax into account)

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1. As a modification of Henry George's single tax it can be traced back to GEORGE'S, OUR LAND AND LAND POLICY (White & Bauer 1871).

> while one on buildings is (except in a depression) normally passed on to tenants.
>
> By taxing land heavily and buildings lightly the city would give owners an incentive to build on their land if it is vacant or to rebuild on it if it is already built upon, or else to sell it to someone who would build on it. In this way more might be accomplished by Federally aided housing and renewal programs.[2]

Professors Meyerson and Banfield are thus allied with descendants of Henry George's single tax reform movement, that flourished in this country and also in parts of Canada, England, Australia and New Zealand around the turn of the century. Among these is H. Bronson Cowan, who, in 1958, published a survey[3] of the alleged beneficial economic and aesthetic effects of the "site-value" tax on cities in Australia and New Zealand. With his broad assertion that taxing the value of land while untaxing buildings is an effective economic weapon against urban slums, Mr. Cowan caught the attention of students of urban affairs here who not so long ago would have turned a deaf ear. They were — as many still are — committed to the belief that all proposed solutions to the problem of urban housing must wait upon the success or failure of the federal urban renewal program, financed and administered under the Housing Act of 1954.[4]

Federal participation in urban redevelopment has its limitations, however, and as these are better understood other means are sought and ends are more closely defined. "A full range of housing opportunities outside the central cities for minority families, and for other low-income families who work there" was given top priority among renewal goals in the Report of the President's Commission on National Goals entitled *Goals for Americans.*[5] Second on the list was an "adequate supply of suitable housing for low and middle-income families who need or want to live in central areas, at low as well as

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2. *The Tax Tangle,* third in a series of articles entitled *Boston: The Job Ahead,* in The Christian Science Monitor, Apr. 25, 1962; under commission by the New England Merchants National Bank. Reprints are available at the Harvard-M.I.T. Joint Center for Urban Studies, 66 Church Street, Cambridge 38, Mass.

3. COWAN, A GRAPHIC SUMMARY OF MUNICIPAL IMPROVEMENTS AND THE TAXATION OF LAND VALUES (New York, Harper & Bros.)

4. 68 STAT. 623, 42 U.S.C. §§ 1450-1460 (1958).

5. CATHERINE B. WURSTER, *Framework for an Urban Society,* Chapter 5 GOALS FOR AMERICANS 231, 225-247 (Prentiss Hall Spectrum Edition 1960) (Catherine Wurster is a lecturer, Department of City and Regional Planning, University of California)

high densities."[6] In reporting out the Housing Act of 1954, moreover, the Senate Banking and Currency Committee "made it quite clear that a substantial improvement in housing conditions was the intent of the financial aid offered, and that cities would not receive financial aid for community facilities unless such improvement resulted."[7]

Awareness of the housing problem was further heightened by a series of studies sponsored by the American Council to Improve Our Neighborhoods (ACTION), on the housing industry and community development, directed and edited by Professor Meyerson. Professor Banfield was the co-author with Morton Grodzins in the first publication entitled *Government and Housing in Metropolitan Areas.*[8] The eighth and most recent study, *Housing, People, and Cities*[9] is referred to below.

Omitted by the various authors in the ACTION study, however, is discussion of the Meyerson-Banfield tax reform proposal, outlined in the *Monitor* article. Such a tax, it is assumed, would benefit a property-owner undertaking the rehabilitation of a run-down building. William W. Nash's *Residential Rehabilitation: Private Profits and Public Purposes,*[10] third in the series, deals with this subject. Limited assessments, actual exemptions and other methods of tax manipulation to further the purposes of urban planning are considered,[11] but Professor Nash nowhere makes reference to the feasibility of gaining differential rates on land and buildings. Nor does Louis Winnick, whose *Rental Housing: Opportunities for Private Investment,* second in the series contains an indictment of unequal property tax treatment of owners and renter-occupied real estate discriminating against renters.[12]

The omission of reference to a land-value based tax in the ACTION series helps crystallize the issues dealt with in the present study. For the tax contemplated by Professors Meyerson and Banfield in the *Monitor* article is predicated on a wide range of economic assumptions and to some degree on a social philosophy that requires examination of an equally wide range of conditions, past, present and future.

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6. *Id.* at 23.

7. HOUSING ACT OF 1954, *Report from the Committee on Banking and Currency,* S. REP. NO. 1472, 83rd Cong., 2d Sess., 35-36 (1954), cited in Slayton, *Conservation of Existing Housing,* 20 LAW AND CONTEMPORARY PROBLEMS 436, 443 (1955).

8. (McGraw-Hill 1958).

9. MEYERSON, TERRETT and WHEATON (McGraw-Hill 1962).

10. Directed by MILES COLEAN (McGraw-Hill 1959).

11. *Id.* at 171-172, 192-193.

12. 80,257 (McGraw-Hill 1958).

Underlying the present examination into some of these matters is the crucial question: Why, at this juncture, has the land value tax been brought back into public focus? Since its enactment is specifically advocated for Boston, the present study cannot contrive an explanation. All that is offered is a framework for comparison.

THE GRADED TAX: A MEANS TO WHAT END?

In modified form, the single tax has been in use in one major city in the United States for nearly 50 years, and research into its effects has been conducted. Dr. J. P. Watson, of the University of Pittsburgh, concluded in 1934 that Pittsburgh's "graded tax," whereby buildings are taxed at half the rate on land, contained a "probable fallacy":

> There will be adjustments, upward and downward, of investment value and of assessed value until there is reached a capitalization in which allowance is made for the tax differential. . . . In other words, the graded tax, really meant to be a classified property income tax, affects the valuation and, therefore, tends more or less to defeat itself.[13]

Taking note of the fact that the assessed value of land within the city limits had declined almost every year since 1914 (the year the graded tax was put into partial effect),[14] as a percentage of total assessed valuations, while building assessments increased as a percentage of this total, Dr. Watson felt it likely that the tax differential had been at least in part capitalized in tax valuations. It followed then, that "To whatever extent this has occurred, the rate differential has ceased to constitute a current differential in tax burden."[15] The figures upon which he based his calculations have since followed the same pattern. In 1925 the split of the burden between land and buildings was 71%— 29%; by 1934 the relative burden on land had fallen to 65% of total yield from real property taxes; and in 1962 the differential was further reduced to 51%—49%. The total valuation of taxable real property in Pittsburgh as of 1962 was $1.225 billion, of which $421.9 million, or 34%, represented the assessed valuation of land, and $803.1 million, or 66%, the assessed valuation of buildings. In contrast, land was valued at nearly twice the level of buildings in 1914.[16]

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13. J. P. WATSON, THE CITY REAL ESTATE TAX IN PITTSBURGH 33 (Pittsburgh, University of Pittsburgh, Bureau of Business Research 1934).

14. By Act of May 15, 1913, P.L. 209, which reduced the rate on buildings gradually over a ten year period. The full 50% rate reduction was first applied in 1925.

15. WATSON *op. cit. supra* note 13, at 83.

16. *Annual Reports of the City Controller, City of Pittsburgh,* 1908-1961.

This kind of information contributes either very much or very little toward proving the success or failure of the graded tax, depending on many circumstances, including the time of the attempted analysis. Dr. Watson seems convinced that because of the graded tax "building valuation has been marked up more than it would have been merely on account of new buildings and changes in the costs of building."[17] Yet, in fairness, he admitted that as of 1934 there was no final answer to the question whether the graded tax differential had been wiped out as a current difference in burden, "with available data —probably not under any circumstances."[18] Instead, he limits himself to the following observation, which raises issues more immediately calculable:

> Consideration of the probabilities, however, is an essential step in an attempt to deal with the Pittsburgh real estate tax. This consideration hinges about the following factors: new building, transportation, rent and cost of building, and the change to the graded tax—none of which can be given more than tentative analysis here.[19]

Since 1934, the building industry has undergone marked fluctuations. Rents and costs of buildings have soared, and the impact of the automobile on the whole of civilization needs no elaboration. Additional factors to be considered include: the flight to the suburbs; the revolution in municipal financing; the fortunes of Pittsburgh's economy; and, of course, urban renewal. Each by itself provides a framework of analysis radically different from the depression-oriented approach of Dr. Watson, just as the trends in the city's economy of the thirties reflected a national economic unheaval that tended to invalidate fundamental theories and assumptions of a previous era.

In an attempt to formulate a more contemporary approach, in light of current goals and issues, Jerome P. Pickard recently studied specific land use effects of the graded tax in Pittsburgh.[20] After consulting with ten of the leading participants in Pittsburgh's postwar "*Renaissance*",[21] Pickard reported that:

> The evidence of the effects of this tax innovation was not conclusive as to specific land use effects; but our discussions

17. WATSON, *op. cit. supra* Note 13, at 25.

18. *Id.* at 21-22.

19. *Id.* at 22.

20. Pickard, *Tax-land Use complexity in Allegheny County, Pennsylvania,* CHANGING URBAN LAND USES AS AFFECTED BY TAXATION, pp. 35-44 (Washington, D.C. Urban Land Institute 1962).

21. Stanley W. Arnheim, Neil Blanton, Frank H. Briggs, Patrick J. Cusick, Earl D. Hollinshead, J. B. Hutchinson, Bernard E. Loshbough, Edward J. Magee, Robert B. Pease, Edward Smuts. *Id.* at 12.

> led us to believe that there had been, and would continue to be, some definite effects of the graded tax in Pittsburgh not necessarily the effects claimed by the advocates of this type of tax.[22]

He recommended, that further study of the Pittsburgh situation be made, with the object of determining the desirability of a graded tax in relation, among other things, to "the prevention or amelioration of blight and slums and the encouragement of privately financed urban renewal and rehabilitation."[23]

Since the question has been raised, and the material on the graded tax in Pittsburgh indicates that its effects, if any, are somewhat evanescent, it should be pointed out that the range of possibilities for fruitful research in this area is severely limited. Basically, the reason is that Pittsburgh has no graded tax. Since it applies only to the *municipal* property tax and not to school and county tax levies, the total property tax on improvements is levied at approximately 71 per cent of the rate on land, not at 50 per cent. Thus, the graded tax law affects only about one-half of the total combined tax levy on Pittsburgh real estate because the school district and county government combined now raise tax revenues from Pittsburghers approximately equal to that raised by the city itself.[24] Moreover, with the tendency in Pittsburgh as well as other cities for building values to exceed land values, the reduction in the effective building tax rate is in fact much less than that envisaged by the early proponents of the tax.[25]

Therefore, while assertions may go uncontroverted that shifting part of the burden of the property tax from buildings to land will benefit homeowners, or that such a levy will discourage speculation in land and provide an incentive to the rehabilitation of deteriorated buildings, it is a matter of common sense that Pittsburgh's experience with the graded tax provides little, if any, visible evidence of their truth.

It would also seem that past thought on the subject has been unduly hampered by confusion and uncertainty. A general property tax having one purpose, the raising of revenue, but with it a multitude of unintended effects, cannot be weighed as an instrument of public policy except upon a scale of intended effects. Without doubt, the

22. *Id.* at 96.

23. *Id.* at 35.

24. Percy R. Williams, *Pittsburgh Experience with the Graded Tax Plan,* unpublished proof to appear in THE AMERICAN JOURNAL OF ECONOMICS AND SOCIOLOGY (New York, Robert Schalkenbach Foundation, proof page 18).

25. *Id.* at proof page 19.

proponents of Pittsburgh's graded tax in 1913 had in mind the creation of a revolutionary instrument of public policy. According to Percy Williams, the intended effects were:

> (1) to encourage private improvements of all kinds through fuller development and redevelopment of urban land;
>
> (2) to check monopoly and land speculation that hinder the highest and best use of land;
>
> (3) to collect a larger share of the 'unearned increment' of land values for public revenue as a matter of justice and equity; and
>
> (4) to reduce the tax burden on improved real estate particularly for the benefit of home owners but also including many other real estate owners, and indirectly their tenants.[26]

Given these aims, but with few identifiable effects, subsequent evaluations inevitably dismissed or accepted the tax on the merits of its theory alone.[27]

With the passage of time even the aims of the tax lost something of their relevance in a world of changing needs. Confusion resulted when random effects were traced to an increasingly elusive cause. On a scale worthy of documentation this very confusion is the only measurable "effect" of the graded tax.

The following lines of inquiry are therefore established in order to relate newly defined ends with the graded tax as a proposed means. First, to what purpose within a framework of overall planning might the graded tax best be put to use? Second, which among the ends suggested by Professors Meyerson and Banfield may be attainable by means of the graded tax in Pittsburgh? Third, by what other means are the same ends now approached? Fourth, to what extent are these and other factors barriers to the effectuation of a true "graded tax plan" in Pittsburgh?

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26. *Id.* at proof page 2.

27. Cf. HARRY G. BROWN, LAND VALUE TAXATION AROUND THE WORLD (New York, Robert Schalkenbach Foundation 1955), chapter on *Pittsburgh's Graded Tax* by Percy P. Williams, pp. 93-106; Thomas C. McMahon; *The Operation of the Graded Tax in Pittsburgh,* ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCES, VOL. CXLVIII (March 1930), 139-142; Edward F. McMahon, *A Critical Analysis of the Operation of the Pittsburgh Graded Tax Law,* ANNALS, Vol. CXLVIII (March 1930), 149-156; John C. Weaver, The Pittsburgh Idea; (Pittsburgh, Henry George Foundation, 1960), mimeographed, 17 pages.

MIDDLE-INCOME HOUSING REHABILITATION

The existing stock of housing in American communities represents an investment whose protection and enhancement is a central concern of the owner, the mortgagor, the community, the government, and the housing industry. 'From its bearing on the general welfare, in terms of the health, safety, comfort, and happiness of the people,' Miles Colean points out in *Residential Rehabilitation: Private Profits and Public Purposes,* 'its meaning is not surpassed by any of our other assets. In terms of the business generated through real estate and financing transactions and property repair and improvement, its importance is hardly less. It provides a large source of local tax revenues. It is at once the glory and the despair of our cities.'[28]

There are four basic methods of rehabilitating the existing stock of housing: (1) voluntary rehabilitation by property owners; (2) higher housing code standards enforced through the police power; (3) public acquisition of property with private rehabilitation; and (4) public acquisition of property with public rehabilitation. Of these, the first involves no legal questions concerning property rights. Understandably, for this and many other reasons it is the most desirable alternative.[29] Moreover, if improving the existing housing supply and adapting it to altered environmental conditions can make for good business "then we may point the way both to an important economic opportunity and to a means for reducing governmental burdens."[30]

Faced with the need for rehabilitation, a growing industry with considerable promise of serving that need,[31] and the charge that, "few activities in the United States have become more dependent than housing upon governmental bulwarking, housing is in the industry capitalism forgot,"[32] planners contemplate "whether public policy should provide incentives to private rehabilitation and, if so, what form the incentives should take."[33]

The graded tax proposal should be distinguished from attacks on the general regressivity of the real property tax. As a drag on pri-

28. MEYERSON, *op. cit. supra,* note 9, at 179.

29. SLAYTON, *op. cit. supra* note 7, at 449-450.

30. Miles Colean quoted in MYERSON, *op. cit. supra* note 9, at 180.

31. MEYERSON, *op. cit. supra* note 9, 181.

32. MEYERSON, *op. cit. supra* note 9, at 343-344.

33. *Id.* at 180.

vate housing construction the real property tax has been criticized in *Housing Taxation,* by Walter A. Morton[34] and in other works, such as *American Housing, Problems and Prospects,* by Miles Colean.[35] But housing construction predominates in higher-income outlying suburban areas, where federal financing policies tend to neutralize the real property tax drag.

Since the focus here is upon housing conditions and the graded tax in Pittsburgh another phase of the housing industry is excluded from consideration: "prestige rehabilitation" (e.g. Beacon Hill, Georgetown, Rittenhouse Square) is geared too much to the ability of the investor to pay a premium for a covenient location and social distinction,[36] to be of much significance in a weighing of increased tax costs in relation to other factors.

The benefits of the graded tax would seem to be greater in the case of middle-income rehabilitation.

> Some of the best opportunities for the rehabilitation of housing for middle-income groups are to be found in the fringe development of a generation or more ago. Here the houses and apartments are larger than those closer to the downtown district and are rarely in as dilapidated a condition. Indeed, their loss of value is more often attributable to obsolescence and poor personal and municipal housekeeping than to serious structural defects or the intrusion into the neighborhood of deleterious commercial uses.
>
> Many of the families that comprise the market for middle-income rehabilitation already own their homes in these areas, but as a rule the houses are deficient or obsolete on a number of counts. *If owners can obtain the necessary financing, they frequently are eager to bring their properties up to a higher level of maintenance, to rearrange interior space, and to install modern equipment. As they do the job themselves or turn to contract remodelers to do it for them, their expenditures make up the largest dollar volume of all rehabilitation.*[37]

Whatever the character of a group within the middle-income bracket, whatever the nature of their preferences, if they are in the market for rehabilitated housing, they are sensitive to fluctuations in costs.

> The investor who operates in the middle-income field must scale his product with infinite care. His customers are the

34. (University of Wisconsin 1955).
35. (The Twentieth Century Fund 1949).
36. MEYERSON, *op. cit. supra* note 9, at 182-183.
37. *Id.* at 186-187 (emphasis added).

> average families for whom most advertisements, Sunday supplements, and television programs are produced. They are heavily in the market for new equipment, more clothing, and even a second automobile, but they are in the market for more housing only when it gives them a favorable balance between convenient location and adequate space, modern equipment and easy financing.[38]

The prospect of increased costs owing to an upward revision of property assessments could clearly be a controlling factor in the investor's decision in this case. The best explanation might be that it is a matter of choice: investors in prestige rehabilitation are at comparative liberty to ignore marginal costs such as property taxes. But for the middle-income remodeler, preferences for convenient locations, adequate space, modern equipment and easy financing must be *balanced.*

The importance of marginal costs, including taxes, to middle-income rehabilitators is further enhanced by the fact that for lower-income groups the choice in housing accommodations is severely limited.

> In a profit economy, the investment presumably will not be made unless it increases the marginal return on the property and unless the return on the new investment is equal to that available from alternative investment opportunities.
>
> Under these circumstances, private rehabilitation, even when it takes place under the spur of housing code enforcement, can serve only limited purposes in the housing market for low-income families. Its chief function is to improve the quality of low-rent dwellings which are *already* available to low-income families.[39]

Since private rehabilitation requires new capital investment and therefore almost invariably results in increases in the prices on rents of dwellings, it happens that "almost all rehabilitation for low-income families is linked to official programs of housing code enforcement. Indeed, only the spur of court action and penalties induces many owners to make improvements."[40] Therefore, insofar as private rehabilitation of low-income dwellings is a goal, property taxes, lower or higher, could not make much difference.

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38. *Id.* at 188.
39. *Id.* at 190.
40. *Ibid.*

Despite encouragement of the industry by the federal government,[41] there is still little attraction for new investor money even in the middle-income field.[42] The market for new housing generally, irrespective of special requirements for rental or rehabilitated housing, remains limited to the top 30 or 40 per cent of the population. The volume of public housing at the bottom was limited in 1959 to 2½ per cent of new construction. Prior to the Housing Act of 1961 it was believed that if interest rates on FHA-insured mortgages could be lowered by 2 per cent, the resulting 25 per cent lower monthly interest payments would let about 15 per cent of all American families into the potential market, "getting well into the middle-income group."[43] It was also believed that adequate housing for low-income groups could be made available without resorting to heavily-subsidized new housing if enough vacancies could be created in the big supply of central-city moderate-quality homes to "free up the market, encourage normal mobility and permit the filtering process to operate effectively."[44] According to this view, rehabilitation of central city residential areas is essential to an effective improvement in lower-income housing standards through the "filtering process," but only with "a great deal of middle-income construction . . . which is impossible with present costs and financial terms."[45]

PITTSBURGH'S RENAISSANCE: MEANS AND ENDS

The debate over whether and to what extent the local real estate tax should be manipulated to provide incentives for building improvements may go on forever, as it has already gone on for over half a century. In the meantime, Pittsburgh has the kind of tax—on the books, at least—that many feel should provide such incentives. If all that they expected of the graded tax had come about, Pittsburgh would contain scarcely a square foot of unused or unprofitably used space. There would be no blight, no dilapidation.

Anyone who has been there recently might even then get the impression, momentarily, that such is the case, for a face-lifting job

41. The HOUSING ACT of 1961 has devised easier and cheaper ways to finance home modernization. See MYERSON, *op. cit. supra* note 9, at 194-195.

42. MEYERSON, *op. cit. supra* note 9, at 194: "Common complaints of investors include difficulties in obtaining financing, and lack of cooperation from, or confusion of policy among, the govermental agencies. . . . Many investors regard rehabilitation as an operation leading to doubtful returns. Lenders reinforce this attitude by taking it for granted that the remaining economic life of a rehabilitated dwelling is much shorter than that of a new dwelling."

43. WURSTER, GOALS FOR AMERICANS, *op. cit. supra* note 5, at 235.

44. *Ibid.*

45. *Ibid.*

of gigantic proportions has been done on the downtown section. But upon closer inspection it is evident that other forces have been at work over the years, and they have thrust upon the populace essentially the same dismal conditions prevailing in most big cities. Inadequate housing is as much a social disease in Pittsburgh as anywhere else.

But it is not so much a measure of the failure of an instrument of public policy—the graded tax, which for all practical purposes does not exist—as it is a reflection over a long period of time of the vagaries of the region's economy, the character of the inhabitants and the peculiarly erratic responses of the city's industrial and political leaders to their needs. All that has been done since the war to rebuild Pittsburgh has been accomplished within a framework of knowledge and expectations about the regions past and its future that by now has been welded into a highly rational, if flexible, formulation of specific goals. The premise upon which these goals are based is that Pittsburgh's main industries have ceased to expand.

With the fall-off in industrial activity came demographic changes and with these changes came the necessity for decisions as to whether and how old land uses might be replaced by new. Those who made the decisions contemplated the further alternative of non-use, but they worked instead for full-scale re-use and urban redevelopment. This fact must be given precedence over all other factors in discussing conditions in Pittsburgh today. For those who do the planning in Pittsburgh have a stake in the outcome. They have invested much in the city that belonged to them; they may, with some justification, regard the return on the investment as theirs.

Under any system of effective planning and leadership, legal tools for the implementation of social policy and the ideals they represent will gather dust without the support of the leaders. The graded tax, of course, is both used and supported—to the extent that it is noticed at all. More worthy of attention are the ends and means adopted by the generation of civic leaders who undertook the "Renaissance" of Pittsburgh after the Second World War.

In 1944 "Pittsburgh . . . was a filty, worn-out plant, having served as the production guts of two world wars. . . . Pittsburgh, whatever the reasons, was not a fit place in which to live and work and raise a family."[46] To make it a fit place in which to live became the first goal. Planners elsewhere may start with the proposition that it is their task to make their city a *better* place in which to live. But be-

46. Edward J. Magee, *The Rebirth of a Region*, (address before the Pittsburgh Builders Exchange, October 18, 1960) (Pittsburgh, Allegheny Conference on Community Development, 1960)

cause Pittsburgh was indeed notoriously "filthy" and "worn-out" and scarcely "a fit place in which to live," the fact of second importance is that planning in Pittsburgh remains principally motivated by this single objective.

It was possibly more of a hindrance to the attainment of this end than a stimulus that the region's economy at the time was, and had been for over thirty years, on the decline. The Pittsburgh Regional population growth rate fell rapidly after 1914, partly because World War I disrupted international travel, cutting off the flow of European emigration which had fed Pittsburgh's labor demands, and possibly because Congress in 1924 imposed a quota severely restricting alien immigration. It has been suggested, however, that in any case the flow of migration to Pittsburgh, which had accounted for a spectacular 41 per cent population growth rate in Allegheny County in 1880-1890, a 34 per cent rate of increase in 1890-1900 and 34 per cent in 1900-1910, would have dried up at about that time because local demands for labor were satisfied.[47] As to why local demands for labor were satisfied a number of reasons may be given but the most significant one was that Pittsburgh's export specialties—primary and fabricated metals, coal and glass,—even during the national prosperity of the 1920's, were meeting competition from other products and from producers closer to western markets, and the 1930's Depression only increased these difficulties. Whatever the ultimate explanation, Pittsburgh *as a city,* "a place in which to live, work, and play," urgently needed overhauling. It would therefore add nothing to a full appreciation of the aims behind the city's renaissance to insist that the needs of industry and industry alone were to be served, any more than it would be realistic to ignore the role played by industry in shaping the course of the renaissance.

Thus, the removal of the "three greatest impediments to rejuvenation," smoke, floods and "a complete lack of anything approaching an effective rapid mass transit system,"[48] was begun in 1944 as the first steps toward creating a city fit to live in. Beyond this point goals tend to blend in with means. Industry needed refurbishing, because without it the city wouldn't exist; but people had to be attracted — people with skills to contribute to the community's main enterprises — so that the economy would not flounder for lack of manpower; and appearances everywhere, including the city's natural setting — the hills, rivers and landscape, — had to be restored, to encourage people to

47. EDGAR M. HOOVER, Volume I in an unpublished three-part study of the Pittsburgh regional economy (University of Pittsburgh, Center for Regional Economic Studies).

48. Magee, *op. cit. supra* note 46, at 1-2.

remain in Pittsburgh or to move there for reasons other than opportunities for employment.

Redevelopment in the years immediately following the war proceeded without benefit of a comprehensive plan. That it proceeded at all has widely been attributed to the will of one man, Richard K. Mellon, president of T. Mellon and Sons. His influence in the selection of means that have been utilized in the course of redevelopment cannot be stressed too heavily, for essential to the mechanics of urban renewal is the organization and financing of agencies to formulate effective solutions to the problems posed. And it was largely by virtue of the concentration of capital and industrial leadership he represented that the Allegheny Conference for Community Development came into being in 1944, a year before the enactment of Pennsylvania's Urban Redevelopment law authorizing the creation of Urban Redevelopment Authorities.[49]

The importance of the Allegheny Conference to Pittsburgh's renewal, encompassing a multitude of projects financed and administered directly or indirectly at every level of government and by a number of private groups cannot be precisely estimated. But neither can it be doubted that other groups played an important role. Edward J. Magee, executive director of the ACCD, stated:

> To imply . . . that the Allegheny Conference alone is responsible for all this activity and record of accomplishment would be considerably less than honest. To one degree or another, we have been involved in all these projects and I think . . . our participation has been helpful in every instance and in some cases essential. . . .[50]

In brief, the goal chosen was the "renaissance" of the city; the means ultilized — the collaboration of private groups and public agencies, through channels already made available by the market economy and channels fashioned by law. Since the time of the passage of the graded tax law an unprecedented combination of political and industrial power has concentrated in Pittsburgh and overshadowed all other efforts, by whatever means, to plan for its welfare.

THE WILL TO REBUILD

Better housing is both a means and an end in the lexicon of urban planning. As an end in itself it must compete with other ends, and quite frequently, as the history of urban renewal in the United States indicates, it comes off second best. As a means to an end, much de-

49. Act of May 24, 1945, P.L. 991, § 2-9; PA. STAT. ANN. tit. 35, § 1702.

50. Magee, *op. cit. supra* note 46, at 21-22.

pends on the weight of importance attached by the authorities to the end it serves. This will determine whether or not it is to be provided for.

In Pittsburgh today better housing is high on the list of priorities. A review of ten redevelopment and renewal projects undertaken by the Urban Redevelopment Authority, shows that nearly 4500 families have been or will be removed from deteriorating and slum areas.[51] In the Lower Hill project alone over 1500 families were affected. These are not very many people in comparison with the total city population, but "unless we have some satisfactory place to which they can move, this whole program will eventually stall, if for no other reason than the fact that Federal assistance, in whatever degree, will be cut off."[52]

Much of the burden, of course, is placed on the City and County Public Housing Authorities, but these authorities do not account for the families who choose not to relocate in public housing; nor do they account for the families who inhabit some of the 27,500 dwelling units within the Standard Metropolitan Statistical Area (SMSA) designated as "dilapidated" by the 1960 Census Bureau Housing report.[53] The four-county SMSA contains 765,800 occupied housing units, according to the Census bureau, of which 78.2% are structurally sound. The remaining 18.2%, or approximately 140,000 dwelling units are "deteriorating" but presently "safe and adequate."

These statistics only substantiate a commonly known fact, that housing conditions are not what they ought to be in Pittsburgh, urban renewal notwithstanding. Renewal projects in planning or under way will affect only 16 per cent of the deficient housing in the county.[54] Urban renewal is, in fact, frequently criticized for creating conditions worse than those it was designed to eliminate. In this sense it has proven more of a failure than the graded tax, a pitifully meager tool by comparison.

What is needed instead is an effective measurement of demand, that can be counted upon to respond to incentives. In that context the salient features of the housing situation in Pittsburgh are (1) ACTION-Housing, Inc. a non-profit citizens' organization:

51. Urban Redevelopment and Urban Renewal, REPORT BY THE URBAN REDEVELOPMENT AUTHORITY, May 1, 1962.

52. Magee, *op. cit. supra* note 46 at 18.

53. Census Bureau figures supplied by HOOVER, *op. cit. supra* Note 47.

54. ALLEGHENY COUNCIL TO IMPROVE OUR NEIGHBORHOOD, EXECUTIVE DIRECTOR'S REPORT TO THE BOARD OF DIRECTORS 15 (ACTION-HOUSING INC., Sept. 11, 1962).

> Established to initiate, coordinate and help to effectuate, in cooperation with other private, civic and public institutions and agencies, a program of good housing in good neighborhoods for moderate income families, and the elimination of slums and blight in Allegheny County.[55]

and (2) the make-up of the housing market served by ACTION-Housing.

(1) ACTION-Housing was organized as the direct result of a survey of local housing needs undertaken by the Pennsylvania Economy League, Inc. (Western Division) for the Allegheny Conference on Community Development. "This survey of the Conference came to the conclusion that a non-profit, representative citizens' organization with a professional staff should be formed to move effectively against the obstacles hindering housing progress."[56] ACTION-Housing has a 44-member Board of Directors, six officers and a staff of six including two attorneys. In the five-year summary report published in September, 1962, Executive Director Bernard E. Loshbough cited one major accomplishment as deserving special attention:

> This is the establishment of the Pittsburgh Development Fund of ACTION-Housing, Inc. The Pittsburgh Fund is a revolving loan fund which has as its fundamental purpose the providing of intermediate equity capital—seed money—for the construction of privately financed privately built and privately operated sales and rental housing for moderate income families, *as well as the stimulation of large-scale home modernization*. The emphasis is on private participation.
>
> The fund was launched in September, 1959, and given impetus toward its goal of $2 million by grants totaling $350,000 from the three Mellon Foundations. Subscriptions to the Fund now total nearly $2 million in interest-bearing loans and grants from 31 local companies, corporations, department stores, utility companies, foundations and banks.
>
> The Fund serves to backstop lending institutions and the home building industry, and is a source of working capital that could not be obtained otherwise. Its funds are to be used in four ways:
>
> 1. Loaning intermediate equity capital to builders for development of new housing.

55. *Id.* at 2.
56. *Id.* at 1.

> 2. *Supplying intermediate equity capital to modernizers for restoring run-down housing.*
> 3. Acquiring land sites available only for total cash purchases, for resale to developers.
> 4. Providing large scale demonstrations of new housing materials, design, technology and production.
>
> The availability of loans from the Development Fund depends upon the merit of the individual proposal, the responsibility of the developer, his willingness to conform to high standards of design, cost limitations and other criteria.
>
> The first privately financed housing to receive a loan from the Pittsburgh Development Fund of ACTION-Housing is the $20 million East Hills Park project.[57]

ACTION-Housing's list of accomplishments is impressive in the field of housing and neighborhood betterment.[58] But with just the facts given it is evident that Pittsburgh's "power hierarchy" has undertaken the task of refurbishing Pittsburgh on a large scale. According to Bernard Loshbough, ACTION-Housing's executive director, and Seymour Baskin, Special Counsel to ACTION-Housing, the graded tax did not enter into their calculations in completing the East Hills Park project.[59] Their views are scarcely startling; more revealing is their indifference to the tax What to the graded tax group are goals to the others are achievements.

(2) The market for home modernization should be more promising in Pittsburgh than could be expected in nearly any other major American metropolis. Besides great quantities of "dilapidated" and "deteriorating" dwelling units the city contains within its limits a population whose patterns of living place them squarely in the market for an improved existing stock of housing. Of first importance is the fact that the metropolitan area as a whole has virtually ceased growing. Each decade since 1920 the Region has suffered a net loss by migration both in absolute and percentage terms.[60] In Allegheny County net losses in migration began in the 1930's and have increased

57. *Id.* at 4-5 (Emphasis added).

58. See: *A Unique Experiment in Industry Cooperation Produces High-Quality, Low Cost, Middle-Income, Housing*, HOUSE & HOME, Nov. 1962, 110-115; *Tidy Pittsburgh Turns to Housing,* BUSINESS WEEK, Oct. 14, 1961; *Pittsburgh Creates New Community,* THE JOURNAL OF HOUSING, March-April 1962, 128-131.

59. Conversation with Bernard Loshbough, Dec. 27, 1962; conversation with Seymour Baskin, Jan. 4, 1963.

60. HOOVER, *op. cit. supra* note 47.

in the 1940's and 1950's.[61] In the decade 1950-1960 the net loss by migration in Allegheny County was 86,000, a large part of it brought about by the exodus of young males.[62] The Region's population growth rate as a whole has increased from 6.2 per cent in 1940-1950 to 8.7 per cent in 1950-1960, but unquestionably any growth at all since the 1920's is due entirely to natural increases.[63]

The population is presently composed of age groups whose numbers and preferences will have visible bearing on the housing market. More than half the Region's population loss through migration fell within the age bracket of 15-29 years; in all, 83 per cent were within the economically productive years of 15-64.[64] The percentage of young adults in the Pittsburgh SMSA in the 20-29 age bracket declined since 1940, when they were 18.4 per cent of the total to 10.8 per cent in 1960; 30-44-year-olds reached their peak in 1950, when they made up approximately 23 per cent of the total, by 1975 they are expected to decrease to 15 per cent. The age group of 45-64-year-olds usually permanently settled in their own homes, with their mortgages paid off, moved up from 16.7 per cent of the SMSA total in 1930 to 21.4 per cent in 1960.[65]

A fair conclusion to be drawn from these facts is that the market of the 60's will contain fewer families setting up housekeeping for the first time, as compared with the 1950's. But there will be more potential customers in older age-brackets ready to move into better houses.

At the height of industrial expansion in Pittsburgh immigrants of a great variety of national and ethnic origins were attracted by the opportunities for work. They were herded en masse into jerry-built tenements near the mills and mines, paid low wages and exploited economically and politically by the established order.[66] Possibly the one remaining vestige of those conditions, however, is the fact that Allegheny County and Pittsburgh still prove the most attractive to minority groups within the four-county region. Allegheny County contains 82 per cent of all Negroes in the Region and only 63 per cent of the total population. Pittsburgh has 23 per cent of the Region's

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61. *Ibid.*

62. *Ibid.*

63. *Ibid.* (Comparative statistics for growth rates 1950-1960; United States, 18.5 per cent SMSA's, 26.4 per cent; 24 largest SMSA's, 45.2 per cent; Pennsylvania, 13 per cent; Philadelphia, 18.3 per cent.

64. *Ibid.*

65. *Ibid.*

66. THE PITTSBURGH SURVEY, 6 Volumes, a social survey of Pittsburgh in 1907 edited by Paul Underwood Kellogg for Survey Associates, Inc. (New York, Russell Sage Foundation, 1914) cited in HOOVER, *op. cit. supra* Note 47.

population and 60 per cent of all Negroes.[67] Moreover, the pressures of congestion have diminished within the city limits not only because of the general population decline, characteristic of several other urban core areas in the United States, but because of Pittsburgh's decline since 1930 as a destination of Negro migration—a decline unparalleled by the experience of other northern and western metropolitan areas where economic opportunities are more abundant.[68] Given the facts that "the vast majority of choices of housing are made from the already existing supply, comprising houses and neighborhoods built some time in the past for other people with other needs and incomes, and under conditions differing from those of today,[69] and the fact that minority groups are restricted in their selection of housing not only by low incomes but also by "special barriers to settling in the suburbs,"[70] it would seem that incentives for housing rehabilitation fairly abound simply on the basis of demographic trends.

Not the least of these trends is Pittsburgh's affinity for single family detached houses. Among the 4 largest SMSA's in the nation in 1960, occupied units in apartment structures accounted for an average of 15.3 per cent of all units. For the four-county Pittsburgh SMSA the corresponding figure is only 7.6 per cent.[71] Corresponding figures for other cities are: New York, 51 per cent; Philadelphia, 7.8 per cent; Buffalo, 8.2 per cent.[72] While cities such as Philadelphia and Buffalo do not appear to offer a much greater percentage of apartment accommodations, it has been pointed out that they compensate by offering small multi-family structures in large numbers—e.g. 56 per cent in Philadelphia as compared with 27 per cent in Pittsburgh.[73] On the other hand, Pittsburgh resembles rapidly growing SMSA's in the West and South in that the number of renter-households far exceeds the number of apartment units available to the extent that 29 per cent of all renters occupy single family houses.[74] The market in Pittsburgh is also exceptionally well supplied with

67. HOOVER, *op. cit. supra* Note 47.

68. *Ibid.*

69. RAYMOND VERNON and EDGAR M. HOOVER, ANATOMY OF A METROPOLIS 121 (Doubleday 1962).

70. *Id.* at 167, 168. Hoover and Vernon suggest also that minority groups such as Negroes and Puerto Ricans in New York, "As long as they are economically insecure . . . see advantages, in living at the congested center of the labor market; and as long as they are socially insecure, they tend to congregate with others in the group with which they are identified."

71. HOOVER AND VERNON *op. cit. supra* note 69.

72. *Ibid.*

73. *Ibid.*

74. *Ibid.*

older single-family structures set close together—a factor which very likely depresses the market for apartments and discourages investment in new and larger structures.[75] In any event the market for rental units of all kinds has narrowed a good deal throughout the nation since 1940, when home ownership constituted 40.6 per cent of all households in the Pittsburgh SMSA as compared with 65.4 per cent in 1960.[76] Apparently the trend of residential arrangements in the Pittsburgh region is in the direction of single family detached houses owned by their occupants; rental tenure is becoming increasingly rare.[77]

It would be misleading to infer from these sources that Pittsburgh's housing differs from that of other cities in the Northeastern and North Central states.[78] The point emphasized is that several among the multifarious factors that go into the making of highly congested disease-ridden slums in cities like New York, Philadelphia and Chicago are missing from Pittsburgh. If it is acknowledged that "the economics of slum property deters extensive replacement, modernization or even maintenance of the antiquated housing," then it must also be questioned whether without a steady influx of ethnic minority groups forced to congregate at high densities on rental property and a high incidence of rental tenure in dilapidated tenements Pittsburgh is comparatively unaffected by barriers to housing rehabilitation present in other cities.

To make housing rehabilitation possible "the effectiveness of different sanctions or incentives will depend on local economic conditions, forms of tenure and the ephemeral *sine qua non* for any program, Community spirit."[79] The ordinary residents of the city, like the prime movers of its renaissance, have a stake in its future, much as any inhabitant of a blighted area must care for the welfare of his community if, despite the attractions of alternative locations, he elects to stay where he is. As a city at the end of the war the whole of Pittsburgh was a slum. It was a place not to be in, a place not to go to, a place to get out of. Even today its charms pale beside the brilliance of San Francisco, New York, Boston, Chicago and other

75. *Ibid.*

76. *Ibid.*

77. *Ibid.* For a more general discussion of the forces behind this change, see WINNICK, RENTAL HOUSING: OPPORTUNITIES FOR PRIVATE INVESTMENT (McGraw Hill 1959) note 12 *supra.*

78. Hoover suggests, instead, that the distinctive flavor of Pittsburgh's residential neighborhoods is the outcome of topographical restraints tending to create large numbers of small neighborhoods. *Ibid.*

79. NASH, RESIDENTIAL REHABILITATION: PRIVATE PROFITS AND PUBLIC PURPOSES (McGraw-Hill 1959) note 10 *supra.*

older American cities whose relative appeal to most city dwellers has never waned. But the fact that Pittsburgh has charms, in addition to an economic base capable of supporting over a million and a half people, attests to the earnestness of those who have gone about restoring their city. It also serves as an indication of their willingness to invest in the rehabilitation of their homes.

THE OUTLOOK IN PITTSBURGH: OLD ISSUES AND NEW

Assuming that a graded tax provides incentives to housing rehabilitation, what are the barriers to its effective enactment? What reasons may be given as to why it should not be made effective?

Several have already been suggested. In the main they amount to the fact that in Pittsburgh, planning has proceeded without regard to the tax. It has neither been relied upon nor subverted. It would appear to be significant only to the exent that in its operation or by its very existence it cuts across the purposes of others.

More concretely the first obstacle in the way of its effective enactment—so that it begins to make itself felt—is the law. Article nine, section one of the Pennsylvania State Constitution decrees that:

> All taxes shall be uniform upon the same class of subjects, within the territorial limits of the authority levying the tax.[80]

Assessors must assess or value all objects of taxation whether for county, city, township, town, school, institutional district, poor or borough purposes:

> *According to the actual value thereof,* and at such rates and prices for which the same would separately bona fide sell. . . . [S]uch selling price, estimated or actual, shall be subject to revision by increase or decrease to accomplish equalization with other property within the taxing district.[81]

Where it is impossible in assessing property for taxation to secure both the statutory standard of true value and the constitutional standards of uniformity and equality, those latter requirements are to be preferred as the just and ultimate purposes of law.[82]

80. The uniformity requirement applies to all states. MARILYN S. KOPLIK, PROPERTY TAX ASSESSMENT IN THE UNITED STATES 42 (New York, 1961)

81. Act of May 22, 1933 P.L. 853 Art. IV, § 402; Act of May 16, 1939, P.L. 143, § 1, PA. STAT. ANN. tit. 72 §§ 5020-5402. (Emphasis added)

82. Buerger v. Board of Property Assessment, Appeals and Review of Allegheny County, 188 Pa. Super. 561, 149 A.2d 466 (1959).

The uniformity requirement does not prohibit classification of property for taxation purposes but classification must be proper under the due process and equal protection requirements of the 14th Amendment to the Federal Constitution; its validity, moreover, depends upon whether there exists such a difference between the entities taxed and the ones not taxed as justifies the legislative classification.[83]

These are the legal hurdles. In the case of the graded tax, in 1913, the law had to be satisfied that classification of land and buildings as separate taxable entities was reasonable, and that in the valuation of real estate by boards of assessment the imposition of a different rate of taxation on buildings from that imposed on land was not in violation of constitutional uniformity requirements. Although they cannot specify the effects of the graded tax there are those in Pittsburgh who feel, as Mayor Joseph G. Armstrong felt in 1914, that the classification of buildings as a separate taxable entity was unjust, and that "in approaching the single tax theory . . . in this way the economic relationship of one property to another seems to have been overlooked."[84] This "economic relationship of one property to another" can perhaps best be defined functionally. The owner of a building is also the owner of the land upon which it stands. Thus, to real-estate brokers and investors, a separate levy upon land and buildings is a separate—and senseless—levy upon two distinct but necessarily economically interrelated components of the same "package." As to how the General Assembly in 1913 was persuaded to permit this classification, it may be noted that prior to the graded tax Pittsburgh had been levying property tax rates on an almost exactly opposite system of classification. "Built up" lands were required to pay "full rates", "suburban or rural" lands paid two-thirds; and "agricultural" lands were taxed at one-half the full rate.[85] The inequities of such a tax in its impact on a growing city may have neutralized much potential opposition to the graded tax."

The reasonableness of the separate classification of land and buildings hinges upon the extent to which it adheres to or infringes on the uniformity requirement. Thus, assessors are at pains to assess real property uniformly so long as there remains any question as to the

83. Commonwealth v. Girard Life Ins. Co., 305 Pa. 558, 158 A. 262 (1932), *aff'd*, 53 S.Ct. 94, 287 U.S. 570.

84. Joseph G. Armstrong, Annual message of Mayor 1914, *Annual Reports of Departments and Offices, City of Pittsburgh, 1914* (Pittsburgh Printing Co.), viii; conversations with Frank Trohaugh, Building Owners and Management Association, Donovan Real Estate Company, Jan. 2, 1963; T. Robert Brennan and Harvey Robins, Brennan & Brennan, attorneys.

85. Act of July 9, 1897, P.L. 219, § 3; see PITTSBURGH DIGEST, 1804-1908, 321-324 (Pittsburgh, Market Review Press, 1908)

economic difference between any two given classes. Since in Pittsburgh buildings and land are legally subject to different levies, but at the same time the actual tax burden borne by any given parcel may vary in relation to other parcels according to the size and value of the building, property owners are apt to feel that they have been treated unfairly. This is only to say that the graded tax adds to assessors' fears that their judgment will be questioned in court, and to that extent it raises administrative problems not likely to be discounted in considering extension of the act.[86]

Prospects for more widespread acceptance of the graded tax in the United States are further diminished by the fact that time has not favored the economic trends which joined in Pittsburgh in 1913 to fashion the "graded tax plan." The original land assessment under the graded tax law in 1914 came to $480.9 million, and buildings were valued at $282.1 million. By 1956 land values according to Board of Assessment figures had fallen to $403.8 million. Since then there has been a modest increase, to $421.9 million in 1962. Building values, meanwhile, have shot up to $803.1 million in 1962. The coming of urban renewal in 1945 added up to a net *decrease* in Pittsburgh land values of approximately $500,000, from 1946 to 1962—although from a low in 1956 of $403.8 million assessments reached a post-war high of $424.7 million only four years later. Building assessments gained by about 50% in the same period—an increase of $262 million. On its face, a proposal to shift more of the tax burden from buildings to land would appear to pose a serious threat to city revenues where it would not have half a century ago.

That the graded tax in 1914 *failed* to cut into real estate revenues is one of the strongest arguments *against* its enactment now, if Pittsburgh is representative of many American cities. The real property tax yield increased from $5.1 million in 1915 to $8.2 million in 1916 after the first step had been taken in the gradual 10-year shift to the graded tax. Rates on land were 9.4 mills and 8.46 on buildings. By 1925, the first year of full operation for the tax, the total yield from land and buildings had mounted to approximately $14.9 million—$10.6 million from land and $4.3 million from buildings. Land assessments had gone up to $547.4 million and buildings to $441.4 million; but even with the strengthened tax base in both classes and the reduced differential between land and building assessments, rates now stood at 19.5 mills on land and 9.75 mills on buildings. The cost of municipal services was going up. Efforts to meet costs with new

86. Conversation with Samuel Rudick, member, Allegheny County Board of Assessments, Appeals and Review; member, Pittsburgh Realty Board, Jan. 4, 1963.

sources of revenue have since overshadowed whatever intentions there might have been to redistribute the tax load. It is largely for that reason that although "the untaxing of improvements appears to be the most valid part of the graded tax program, . . . there seems no likelihood that this can be accomplished unless substitute revenues are found."[87]

The search for substitute revenues leads in many directions in Pennsylvania, as elsewhere. The graded tax has by no means been dated by the facts adduced, for as recently as 1951 the General Assembly—by a vote of 50-0 in the Senate and 184-1 in the House—passed a bill enabling third class cities to adopt the graded tax.[88] No explanation appears in the literature on land value taxation as to why third class cities have so far not used the tax.

Further mention is made of a bill introduced in the General Assembly in 1945 to reduce the rate on buildings from one-half to three-tenths of the rate on land.[89] At the same time the "Essential value and also the political popularity of the graded tax plan was clearly indicated when in 1945 some of the real estate interests began again to talk about the possibility of repealing the law or placing a legal limitation of the tax rate to handicap its operation. . . . The City Council unanimously adopted a resolution endorsing the graded tax plan."[90]

The drive to improve municipal financing in Pennsylvania has also produced the "tax-anything law," whereby the whole field of taxation not devoted to state purposes was opened to most political subdivisions.[91] Pittsburgh as a result now imposes a mercantile tax and taxes on personal property, amusements, earned income and deed transfers, in addition to real property. The total income dollar in 1961 was made up of a $50.2 million "general fund" and an $8.1 million "water fund." Where in 1945 the real estate tax had accounted for 67.5 per cent of the General Fund, by 1961 it accounted for only 50 per cent.[92] Whether it will fall below this ratio in the future is de-

87. Mabel Walker, *Fiscal Aspects of Land Use,* TAX POLICY 25 VOL. XXIX, Nos. 7-8-9 (July/August/Sept. 1962).

88. Act of Aug. 17, 1951, P.L. 1262, § 2; PA. STAT. ANN. tit. 53 § 37531; Percy Williams in BROWN, et al., *op. cit. supra* note 27, at 105.

89. 57 YALE L. J. 219, 234, citing AM. CITY, May, 1945, 117.

90. Percy Williams, *Pittsburgh Pioneering in Scientific Taxation,* AMERICAN JOURNAL OF ECONOMICS AND SOCIOLOGY, Vol. XXI, No. 2 (April 1962), 220, citing THE MUNICIPAL RECORD, 1945, pp. 78-79, 87-89, 322, Res. No. 55, adopted March 12, 1945.

91. See S. Edward Hannestad, *Local Taxation in Pennsylvania,* TAXATION AND FISCAL AFFAIRS foll. PA. STAT. ANN. tit. 72 § 4663.

92. CITY CONTROLLER, ANNUAL REPORTS.

batable, although in 1955 it had already fallen to 48.4 per cent. In any case local governments remain dependent upon the real property tax and to that extent the financing of local governments will continue to exert an unrationalized influence on consumer choices in a number of ways, including choices between rehabilitated and deteriorated housing.

The thought that a graded tax would tend to counteract ill effects of the real estate tax meets an insurmountable obstacle in the likelihood that it would hurt central commercial areas.[93] The fall in urban center land values and the rising costs of government are a minor fraction of the changes cities have undergone in the last half century, and almost every change has meant more trouble for the older commercial centers. An understanding of the nature of their ills and the importance planners attach to them is essential to a well-reasoned evaluation of the graded tax.

Since land may be privately held for investment certain lands acquire more investment value than others. For a while, in the nineteenth and early twentieth centuries, cities contained considerable quantities of open land strategically located for investment purposes. Like corporate stock, it was held until its sale netted the owner a profit. The days of in-city open land investment came to an end, however, not only when most or all of the open land had been sold but when the uses to which land was put became more diversified. Locational requirements for industry, new preferences for spacious living and an increased mobility of the population as a whole combined with a multitude of other pressures to scatter site values all about the metropolitan area. Cities in the nineteenth century, it has been said, grew after the fashion of a sand-pile poured from an overhead spout, while more recently they spread out like poured molasses.[94] As a consequence in-city land values dropped; their attractiveness as investment opportunities faded, just as corporate stock loses its appeal in a falling market.

But unlike corporate stock, "down-town" represents more things to people than a piece of paper with a certain trade-in value. It has a value all its own. When it was no longer the sought-after commodity it had once been in the days of Henry George, downtown lost its luster, not only as a place to invest in but as a place in which to live. The normal functioning of the market economy threatened to lay waste

93. Cf. Eli Schwartz and James E. Wert, *An Analysis of the Potential Effects of a Movement Toward a Land Value Based Property Tax*, 35 (New York, Economic Education League 1951).

94. The analogy is borrowed from Hoover's unpublished regional economic study of Pittsburgh.

much that it alone was responsible for and with it the pride of an entire civilization. For the individual investor the loss was perhaps regrettable. But for civilization it was too much to bear. Enormous supplies of tangibles and intangibles essential to the restoration of all that the market had abandoned had to be replenished. As a means to this end the very same incentives for investment and profit previously wielded by the invisible hand were employed. As before, some would profit and some would take a loss. And there would be risks to the individual. The difference now was that the city was using the market to further its own ends. The market had been rationalized.

Against this crude historical backdrop it will be seen that the decisions on how land in Pittsburgh should be used are not arrived at in the same fashion today as they were 50 years ago. Different people with different intentions plan for its future, and certain effects weigh heavily on their decisions. The survival of the central business district—"downtown," the heart of the city—is the ultimate end.

The Pittsburgh Regional Planning Association[95] has forged a master plan of Pittsburgh's "Golden Triangle"[96] summarizing the results of intensive studies of the Triangle[97] and outlining suggested re-uses of land to be completed by 1980. The importance of the revival of the Triangle is stressed in the following language:

> The Golden Triangle is the heart of the Pittsburgh region. This triangular piece of real estate . . . covers approximately 374 acres. Within this small area—less than one-one-thousandths of the total land in the county—there are more than 30 million square feet of commercial floor space with a total assessed value of over $300 million, 8.4% of the county. Of all the people employed in the metropolitan area, 11.8% or about 100,000 persons, work in the Triangle. Along with shoppers and other visitors, they spend some $333 million during a year in Triangle establishments. From these facts the appropriateness of the name Golden Triangle becomes evident. *It is also evident that the future growth (or de-*

95. A privately financed planning agency formed in 1918, a member of the "team" along with Action-Housing, Inc., The Pennsylvania Economy League, Inc. (Western Division) and the Regional Industrial Development Corporation working in cooperation with the Allegheny Conference on Community Development. Action-Housing, Inc., op. cit. (back cover).

96. Pittsburgh Regional Planning Association, A plan for Pittsburgh's GOLDEN TRIANGLE, 1962.

97. Including Pittsburgh Area Transportation Study, *Study Findings,* 2 volumes, (Pittsburgh, 1961, 1962); and *Golden Triangle Market Study,* prepared for the Pittsburgh Regional Planning Association by Larry Smith & Co. (Washington, D.C. 1961).

> *cline of this small but important area will strongly influence the development of Pittsburgh, Allegheny County, and the surrounding urban region.*[98]

In comparison with the central business districts of Philadelphia, St. Louis, Cleveland, Baltimore, Cincinnati, Milwaukee, Kansas City and Denver.

> Pittsburgh has proportionately more offices and banks and less manufacturing . . . the average per cent of space used for office uses in the nine cities is 32% as compared to 44%, for the Triangle. In manufacturing the average is 14%, while in the Triangle it is less than 3.9%.
>
> . . . 61.8% of all CBD employees work in offices.
>
> The dominance of office employment reflects the role of the Triangle as a national and regional office center.[99]

Because office activities represent the largest and most important uses in Pittsburgh's Triangle "projections indicate that they will be the strongest part of the future downtown. . . . The projection of 3,000,000 to 3,500,000 square feet of new office construction over the next 20 years provides ample opportunity for developing a fine office complex."[100]

Businesses must be encouraged to invest in such property; they must be convinced among other things that locating office facilities downtown will not overburden them with costs in comparison with other sites. Property taxes in Pittsburgh, as in many other cities, are a major source of complaint among office building owners. In 1961 the National Association of Building Owners and Managers reported that while an upward trend in costs and a downward trend in profits had been arrested in the cities tabulated, and average occupancy levels were generally satisfactory, the controlling increase in the rise in general operating accounts was in "fixed charges over which management has little or no control." The most highly resented among total fixed costs seems to be real estate taxes:

> Local taxes increased 2 cents per square foot, from 55.5 cents to 57.5 cents, an increase of 3.6 per cent. The ratio of taxes to total income increased from 14.4 per cent to 14.7 per cent another way of saying that real estate taxes consumed 14.7 cents of every dollar of income.[101]

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98. PRPA, *op. cit. supra* note 96, at 22. (Emphasis added).

99. *Id.* at 25, 26.

100. *Id.* at 53.

101. NATIONAL ASSOCIATION OF BUILDING OWNERS AND MANUFACTURERS, OFFICE BUILDING EXPERIENCE EXCHANGE REPORT, 5 (Chicago, 1961).

The resentment does not stem from any significant change in the proportional relation of real property taxes paid to other fixed costs, such as fire and other insurance, personal property assessments and depreciation. Figures compiled by the Building Owners Association show a drop in percentage of real estate taxes paid in relation to other fixed charges, from 59 per cent in 1924 to 49 per cent in 1956 and 47 per cent in 1961.[102] Total fixed costs increased 123 per cent from 1935 to 1961 while in the same period the real estate tax cost component increased by only 110 per cent. Thirty-five per cent of the rise in total fixed costs occurred in 1956-1961, when realty tax costs climbed just 30 per cent.[103]

Building owners argue simply that they pay more than their fair share of the city real estate tax. Complaints of Pittsburgh building owners are perhaps justified by the fact that real estate taxes there take 16.3 per cent of their gross receipts—more than in any other city except Boston and New York.[104]

An unusually high ratio of assessments to actual market values is thought to be the controlling factor. Pittsburgh Regional Planning Association data regarding the sales price and assessed values of 139 properties sold within the Triangle from 1955 to 1961 reveal that:

> 84 of these properties (approximately 60%) sold for more than their assessed values, while 55 (40%) sold for less than their assessments. The total assessment a percentage of sales price ranged from 19% to 532%, with the average property selling for slightly less than its assessed valuation. The average property had an assessment of $252,600 and sold for $250,000.
>
> It was further found that properties tend to be assessed higher in relation to their market values in what is generally considered to be the retail and office core of the Triangle than in the fringe area. In the core area 60% of the properties sold for less than assessed values. . . . Properties tend to be assessed higher in the retail and office core of the Triangle than in the fringe areas.[105]

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102. *Id.* at 7.

103. *Ibid.*

104. URBAN LAND INSTITUTE, *op. cit. supra* note 101, at 46, 49 Corresponding figures for other cities include Boston, 20%; New York, 19.5%; Chicago, 15.4%; Detroit, 14.3%; Baltimore, 13.1%; St. Louis, 11.5%; Washington, 8.4%.

105. PITTSBURGH REGIONAL PLANNING ASSOCIATION, *op. cit. supra* note 96, at 33.

PRPA based its findings in part on a market study of the Golden Triangle which concluded that, so far as the graded tax was concerned:

> A general observation is that such a graded tax system works least well in these areas and at those times when the market does not support a high level of investment. Since many areas of the Pittsburgh SMSA are experiencing a high level of real estate activity the graded method of taxation does not have the same impact as it does on downtown real estate. If there is any future large-scale adjustment made on real estate taxation it would be more practical to restudy the assessment ratio on individual properties and locales than amend the graded taxing system.[106]

The same study weighed the various factors that might account for building owners' complaints about the high level of taxation, including the graded tax and high levels of assessment. It found that:

> A strengthening of the market for Triangle purposes and for rental space, within the properties would alleviate the relatively high tax load, because of the greater income levels to support the taxation. Therefore it is perhaps more appropriate when describing existing property assessment and taxation to state that the market is weak rather than that the land assessments and taxes are high. If the market within the Triangle improves, taxes will decrease as a percentage of total income; if the market does not improve, then the existing complaint of high land assessments and taxation will be alleviated.[107]

Planners are therefore well aware of the disproportionate tax load borne by downtown properties, which "undoubtedly accounts in part for the lack of new buildings and improvements in the central area in recent years."[108] Moreover, they are aware that an effective graded tax—if it exerted any influence at all—would be detrimental to their stated purpose of strengthening the downtown market, and hence rejuvenating the city of Pittsburgh.

The graded tax has come to a new pass. Generally conceded to be helpful to residential rehabilitation it is also conceded, by friend and

106. Larry Smith & Co., *op. cit. supra* note 97, at 191.

107. *Id.* at 194.

108. "It also helps to explain why most of the new buildings in downtown Pittsburgh have been built on the periphery rather than the center of the Triangle," PITTSBURGH REGIONAL PLANNING ASSOCIATION, *op. cit. supra* note 96, at 33.

foe alike[109] to be a hindrance to redevelopment in the central business district. It tends to discourage investment where investment is most needed. In residential sections regional economic trends repressed the incentives it was supposed to have nourished. A good part of its job was preempted by local, state and federal powers whose might and precision eclipsed whatever feeble surge it might have sparked.

So hopeless, indeed, is the outlook for the graded tax that the only real possibility of its widespread *and* effective enactment lies in the degree to which urban patterns of growth, planning and land-use specialization have already physically separated residential from business and commercial uses, and will continue to do so. For them might it not be feasible, within the limits of uniformity and equality, to apply the tax to that part of the jurisdiction where it does the most good, without extending it to that part where it does the most harm? Could the law not then be persuaded that with the accomplished separation and isolation of economically divergent classes of property taxing jurisdictions might accordingly be re-formed, to devise means of raising revenue best suited to the preservation of its source? How unorthodox is such a solution, in any case, when by means of lower assessment rates on residential properties and higher ratios on business and commercial properties the existing real estate tax already takes the separation into account?

True, time has not favored the combination of economic trends that fashioned the graded tax in 1914. But, more important, it has preserved its ideological origins. At one property could be put to any use its owner wished, within the ill-defined limits of a system of law dedicated to the sanctity of private property. Land-use planning today is predicated upon the proposition that the use of land is within the public province—whether or not the "public" is so convinced. Single taxers and land-use planners agree that land is a resource whose supply is fixed, and for the public good its use should not be dictated by ordinary laws of supply and demand but by a rational system of allocation. They are further agreed that taxation wields sanctions and incentives which, in the interest of a planned economy, ought to be controlled; and that the administration of the local real estate tax could encourage housing improvements if all or part of the tax on buildings, separately classified, could be shifted to land.

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109. Cf. Williams, *op. cit. supra* note 24, at 9; JOHN H. VANDERZELL, THE ROLE OF LOCAL GOVERNMENTS IN ENCOURAGING HOUSING REHABILITATION AND CONSERVATION THROUGH ECONOMIC INCENTIVES, 34-35 (Harrisburg, Pennsylvania Department of Internal Affairs, 1961).

Their differences lie in the extent of their ambitions. Single taxers intended only that land be used. Perhaps it was to this end that they sought the nationalization of land. In any case they posed no serious threat to the institution of private property, and it cannot be said that in their immediate purpose they were enemies of the law.

Land-use planners, on the other hand, intend that land be used in certain ways, by certain people and in certain places. Their basic assumption is that land will be used, and if in their opinion vacant land is a "use" they have means at their disposal—including laws revolutionary by standards of less than 20 years ago—to assure its perpetuation. Vacant land is as much to them a remedy for blight as it was a cause to single taxers.

The question of who is wreaking havoc with property rights or challenging fundamental notions of equality and justice is thus somewhat fuzzy. In answer to the question of why a land value based tax has been brought back into focus at this juncture it can only be said that now, as before, the issues raised are equally fundamental and equally troublesome.